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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO.    |
|--|-------------|----------------------|---------------------|---------------------|
| 10/678,098   | 10/06/2003  | Kingo Okada          | 2018-787            | 4425                |
| 23117  | 7590        | 03/07/2006           | EXAMINER            |                     |
| NIXON & VANDERHYE, PC<br>901 NORTH GLEBE ROAD, 11TH FLOOR<br>ARLINGTON, VA 22203 |             |                      |                     | MILLER, CARL STUART |
| ART UNIT   |             | PAPER NUMBER         |                     |                     |
|  |             | 3747                 |                     |                     |

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/678,098             | OKADA, KINGO        |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Carl S. Miller         | 3747                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 12/15/05.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-30 is/are pending in the application.
  - 4a) Of the above claim(s) 9-12 is/are withdrawn from consideration.
- 5) Claim(s) 13-15 is/are allowed.
- 6) Claim(s) 1-8, 16-21 and 27-30 is/are rejected.
- 7) Claim(s) 22-26 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

Claims 9-12 remain withdrawn from consideration as drawn to a n-elected species of the invention.

Claims 19, 21, 28 and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In particular, the phrase "that opposes to the fuel filter has no clear meaning.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hazama in view of Farrar.

Farrar applies as per the last office action. Hazama teaches the use of a reservoir and jet pump in combination with a horizontally disposed fuel pump.

It would have been obvious to ground the pump of Hazama as taught by Farrar because both systems used a reservoir fed by a jet pump.

Claims 2-4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hazama in view of Farrar and Gilmour.

Hazama and Farrar apply as in Claim 1 above and Gilmour applies as per the rejection of claim 2 in the last office action.

Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hazama , Farrar and Gilmour as applied to claim 2 above, and further in view of Nagata. Nagata applies as per the rejection of these claims in the last office action.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hazama Farrar and Gilmour as applied to claim 2 above, and further in view of Japan ('840). Japan ('840) applies as per the last office action.

Claims 18, 20, 27 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hazama Farrar and Gilmour as applied to claim 8 above, and further in view of Kleppner ('614).

Kleppner teaches the common practice of surrounding a fuel pump in a reservoir with the fuel filter, thereby making this an obvious location of the filter in Hazama.

Claims 13-15 are allowed.

Claims 22-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's arguments filed 12/15/05 have been fully considered but they are not persuasive. In particular, applicant is arguing that the positioning of the pump horizontally within the reservoir is unobvious, but the prior art clearly shows that this to be a fairly obvious orientation for the pump. The fact that Hazama includes both a reservoir around the pump and a jet pump feeding this reservoir would have made of one of ordinary skill in the art think to ground the jet pump as taught by Farrar.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carl S. Miller whose telephone number is 703-308-2653. The examiner can normally be reached on MTWTHF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry YUEN, can be reached at 571-272-4856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Carl S. Miller  
Primary Examiner

A handwritten signature in black ink, appearing to read "Carl S. Miller". Below the signature, the words "Primary Examiner" are printed in a smaller, sans-serif font.